

## EXHIBIT A

**LEWIS**  
AND  
**ROCA**  
LLP  
LAWYERS

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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,<sup>1</sup>

USA Capital Diversified Trust Deed Fund,  
LLC,

USA Capital First Trust Deed Fund, LLC,<sup>2</sup>

USA Securities, LLC,<sup>3</sup>

Debtors.

**Affects:**

- ☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

USACM Liquidating Trust,

Plaintiff,

v.

Compass USA SPE, LLC, a Delaware  
limited liability company, and Compass  
Partners, LLC, a Delaware limited liability  
company, and Republic Title of Texas, Inc.,

Defendants.

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Adv. No. 08-01066-lbr

**Settlement Agreement with Silar  
Advisors LP and Asset Resolution, LLC**

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 26, 2007.



1 The USACM Liquidating Trust (the “Trust”) and Silar Advisors LP and Asset  
2 Resolution, LLC (collectively “Silar”) stipulate through counsel:

3 1. *APA.* USA Commercial Mortgage Company (“USACM”) and other Sellers  
4 entered into an Asset Purchase Agreement (“APA”) with Compass USA SPE, LLC, a  
5 Delaware limited liability company, and Compass Partners, LLC, a Delaware limited  
6 liability company (collectively “Compass”).

7 2. The sale of the assets covered by the APA closed on February 16, 2006 (the  
8 “Closing”). Before the Closing, disputes arose between Compass and Sellers with respect  
9 to Compass’ entitlement to certain disputed price adjustments claimed by Compass under  
10 the APA.

11 3. *Escrows.* In order to complete the Closing by the deadline outlined in the  
12 Compass APA, Compass and Sellers entered into two escrow agreements whereby a total  
13 of \$2,565,666.45 was placed into escrow (the “Escrow”), pending determination by this  
14 Court with respect to Compass’ entitlement to the disputed price adjustments that  
15 Compass claimed under the Compass APA.

16 4. The Escrow Agent (Republic Title of Texas, Inc.) reports that the balance in  
17 the Escrow after disbursements is \$2,099,067.79.

18 5. Silar represents that after the Trust filed this suit, all of Compass’ interest in  
19 this action was transferred to Silar via foreclosure. The Trust has sought an order from  
20 this Court joining Silar as defendants. Silar does not oppose entry of an order joining it as  
21 a party defendant in this action.

22 6. *Prepaid Interest.* Compass was obligated to account to the Trust for Prepaid  
23 Interest collected from Lenders after the APA closed. The Trust has alleged in this action  
24 that Compass failed to account to the Trust for post-Effective Date collections and failed  
25 to collect and remit Prepaid Interest in an amount to be determined. Silar has provided the  
26 Trust with an accounting that Silar believes, based on records it received from Compass,

1 accurately reflects Prepaid Interest collected from Lenders after the APA closed, as well as  
2 the unpaid balance of Prepaid Interest after application of collections.

3 7. The Trust is indebted to Compass for \$237,023.29, which is USACM  
4 Liquidating Trust Marquis distribution check No. 1174 (the "Distribution"). The  
5 Complaint in this action alleges that the Trust holds this sum in order to preserve its rights  
6 of offset against Compass.

7 8. The parties have negotiated with respect to the issues raised in the Complaint  
8 and have reached a settlement of some of those issues as reflected in this Agreement.  
9 They understand that they are settling disputed issues of fact and law without admitting the  
10 correctness of any position asserted by any party.

11 9. *Agreements.* Upon Court approval of this Agreement:

12 9.1. *Escrows.* The Escrow shall be split equally between the Trust and  
13 Silar.

14 9.2. *Prepaid Interest.* On a going forward basis, Silar shall deduct Prepaid  
15 Interest from any cash distributions to Lenders on Loans that Silar is servicing with  
16 liability for Prepaid Interest on a Lender-by-Lender basis; *provided, however,* that the  
17 Trust shall, prior to any distribution by Silar (or any successor servicer), provide Silar (or  
18 any successor servicer) with a schedule detailing the amount of Prepaid Interest owed by  
19 each Lender entitled to receive the particular distribution. Silar (or any successor servicer)  
20 shall be entitled to rely on the notice received from the Trust. Silar (or any successor  
21 servicer) shall notify the Trust of a distribution within 10 calendar days prior to making  
22 such distribution. The Trust may seek appropriate relief from the Court to establish the  
23 amount of Prepaid Interest owed by each Lender. Silar shall cooperate with the Trust's  
24 efforts to seek such appropriate relief. With every distribution of Prepaid Interest to the  
25 Trust, Silar shall include a detailed accounting, on a Lender by Lender basis, of Prepaid  
26 Interest collected and paid to the Trust.

1                   9.3. *Directions to the Escrow Agent.* Upon Court approval of this  
2 Agreement, the Escrow Agent shall wire the Escrow balance equally to Silar and to the  
3 Trust.

4                   9.4. *Indemnity.* Silar shall indemnify and hold the Trust harmless from  
5 any cause of action asserted by Compass or liability of the Trust to Compass with respect  
6 to the Escrow.

7                   9.5. *Mutual Release.* Upon entry of a final order approving this  
8 Agreement, each Party on behalf of itself and any person or entity claiming by and through  
9 it, shall be deemed to have released the other Party, and its agents, attorneys, employees,  
10 representatives, members, advisors, officers, directors, shareholders, partners, insurers,  
11 affiliates, successors, assigns, and transferees, from any and all claims, demands and  
12 causes of action of any kind, nature or description whatsoever, known or unknown,  
13 through the entry of such final order, and from any and all liabilities, damages, injuries,  
14 actions whether in law or in equity, which such Party now holds or has asserted, or in the  
15 future may hold or may assert relating in any way to the allegations and claims set forth in  
16 the pleadings filed in the case solely concerning the Escrow. Nothing in this release shall  
17 operate as a release of the causes of action of the Trust against Compass.

18               10. *Miscellaneous.*

19                   10.1. *No Admission.* Any action taken by any Party pursuant to this  
20 Agreement is done as a compromise of disputed claims to effect an amicable settlement  
21 and avoid the time, expense and uncertainty that would accompany litigation. This  
22 Agreement is not to be construed as any admission of liability by any Party.

23                   10.2. *Interpretation.* Each party has had the opportunity to be represented  
24 by counsel during negotiations of this Agreement and to consult with counsel regarding its  
25 meaning and effect. The terms and provisions of this Agreement are not to be construed  
26

1 more strictly against either of the Parties. The terms and provisions of this Agreement  
2 shall be construed as having the plain meaning.

3 10.3. *Modification in Writing.* This Agreement may be amended only by  
4 written agreement signed by each of the Parties. Any alleged breach of this Agreement  
5 may be waived only by a written waiver signed by the party granting the waiver.

6 10.4. *Final Agreement.* This Agreement represents the complete, entire,  
7 and final agreement between the Parties relating to the subject matter hereof and  
8 supersedes any and all other negotiations, representations, understandings and agreements,  
9 and it shall be binding upon and inure to the benefit of the executors, administrators,  
10 personal representatives, heirs, successors and assigns of each. This Agreement may not  
11 be contradicted by evidence of prior, contemporaneous or subsequent oral or written  
12 agreements and understandings of the Parties in connection therewith. No representation,  
13 warranty, covenant, agreement or condition not expressed herein shall be binding upon the  
14 Parties or shall affect or be effective to interpret, change or restrict the provisions  
15 contained herein. There are no unwritten oral agreements between the Parties.

16 10.5. *Nevada Law.* This Agreement shall be construed and interpreted in  
17 accordance with the laws of the State of Nevada as they exist at the time of the execution  
18 of this Agreement.

19 10.6. *Counterparts.* This Agreement may be executed in counterparts, each  
20 copy of which shall serve as an original for all purposes, but all copies shall constitute one  
21 and the same agreement. Faxed and/or emailed copies of signatures hereto shall be  
22 effective, provided that the original signature pages shall be maintained by the Parties or  
23 their respective counsel.

24 10.7. *Authority to Execute.* Each signatory to this Agreement represents and  
25 warrants that they have the authority of their respective clients to execute this Agreement  
26 on their behalf.



1                   10.8. *Bankruptcy Court Jurisdiction.* The Bankruptcy Court shall retain  
2 exclusive jurisdiction over the interpretation and enforcement of this Agreement, as well  
3 as any disputes that may arise between the Parties relating to this Agreement. The Parties  
4 consent to the exclusive jurisdiction of the Bankruptcy Court for these purposes.

5                   10.9. *Time is of the Essence.* The Parties agree that time is of the essence.  
6 Accordingly, the Trust has agreed to use its best efforts to cause the payments to Silar  
7 described in this Agreement to occur on or before December 31, 2008, including by filing  
8 a motion to approve this Agreement and to have such motion heard on an expedited basis.  
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1 Dated: December 17, 2008.

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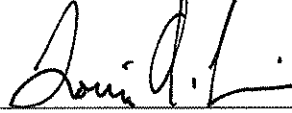
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